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PART--IV-- Bills introduced in the Tripura Legislative Assembly, Report of Selection Committees presented or to be presented to that Assembly ; and Bills published before introduction in that Assembly.

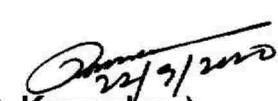
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No.F.7(12-10)-LA/2020/3702

Dated, Agartala, the 22nd September, 2020.

NOTIFICATION

“ As required under Rule 117 of the Rules of Procedure and Conduct of Business in the Tripura Legislative Assembly, “**The Tripura State Goods and Services Tax (Third Amendment) Bill, 2020 (The Tripura Bill No. 17 of 2020)**” as introduced in the Assembly on the **21st September, 2020** to be published in the Tripura Gazette.”


(B.P. Karmakar)

Secretary
Tripura Legislative Assembly

THE TRIPURA BILL NO. 17 OF 2020.

**THE TRIPURA STATE GOODS AND SERVICES TAX
(THIRD AMENDMENT) BILL, 2020**

A

BILL

WHEREAS, the Central Government has amended the Central Goods and Services Tax Act, 2017 through Section 118 to 133 of the Finance Act, 2020 (No. 12 of 2020) and Clause 8 of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (No. 2 of 2020);

AND

WHEREAS similar amendments are required to be made in the Tripura State Goods and Services Tax Act, 2017 to avoid repugnancy with the Central Act;

BE it enacted by The Tripura Legislative Assembly in the seventy-first year of the Republic of India as follows:

Short title and commencement.

- 1. (1)** This may be called the ‘Tripura State Goods and Services Tax (Third Amendment) Act, 2020’;
- (2)** Save as otherwise provided in this Act, sections 2 to 11 and sections 13 & 15 shall come into force on such date as the State Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

- 2.** In section 2 of the Tripura State Goods and Services Tax Act, 2017 (hereinafter referred to as the Tripura State Goods and Services Tax Act), in clause (114), for sub-clauses (c) and (d), the following sub-clauses shall be substituted, namely:—

“(c) Dadra and Nagar Haveli and Daman and Diu;
(d) Ladakh;”.

Amendment of section 10.

- 3.** In section 10 of the Tripura State Goods and Services Tax Act, in sub-section (2), in clauses (b), (c) and (d), after the words “of goods”, the words “or services” shall be inserted.

Amendment of section 16.

- 4.** In section 16 of the Tripura State Goods and Services Tax Act, in sub-section (4), the words “invoice relating to such” shall be omitted.

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Amendment of
section 29.

5. In section 29 of the Tripura State Goods and Services Tax Act, in sub-section (1), for clause (c), the following clause shall be substituted, namely:—

“(c) the taxable person is no longer liable to be registered under section 22 or section 24 or intends to optout of the registration voluntarily made under sub-section (3) of section 25.”.

Amendment of
section 30.

6. In section 30 of the Tripura State Goods and Services Tax Act, in sub-section (1), for the proviso, the following proviso shall be substituted, namely:—

“Provided that such period may, on sufficient cause being shown, and for reasons to be recorded in writing, be extended,—

(a) by the Additional Commissioner or the Joint Commissioner, as the case may be, for a period not exceeding thirty days;

(b) by the Commissioner, for a further period not exceeding thirty days, beyond the period specified in clause (a).”.

Amendment of
section 31.

7. In section 31 of the Tripura State Goods and Services Tax Act, in sub-section (2), for the proviso, the following proviso shall be substituted, namely:—

“Provided that the Government may, on the recommendations of the Council, by notification,—

(a) specify the categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed;

(b) subject to the condition mentioned therein, specify the categories of services in respect of which—

(i) any other document issued in relation to the supply shall be deemed to be a tax invoice; or

(ii) tax invoice may not be issued.”.

Amendment of
section 51.

8. In section 51 of the Tripura State Goods and Services Tax Act,—

(a) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) A certificate of tax deduction at source shall be issued in such form and in such manner as may be prescribed.”;

(b) sub-section (4) shall be omitted.

Amendment of
section 122.

9. In section 122 of the Tripura State Goods and Services Tax Act, after sub-section (1), the following sub-section shall be inserted, namely:—

“(IA) Any person who retains the benefit of a transaction covered under clauses (i), (ii), (vi) or clause (ix) of sub-section (1) and at whose instance such transaction is conducted, shall be liable to a penalty of an amount equivalent to the tax evaded or input tax credit availed of or passed on.”.

Amendment of
section 132.

10. In section 132 of the Tripura State Goods and Services Tax Act, in sub-section (1),—

(i) for the words “Whoever commits any of the following offences”, the words “Whoever commits, or causes to commit and retain the benefits arising out of, any of the following offences” shall be substituted;

(ii) for clause (c), the following clause shall be substituted, namely:—

“(c) avails input tax credit using the invoice or bill referred to in clause (b) or fraudulently avails input tax credit without any invoice or bill;”;

(iii) in clause (e), the words “, fraudulently avails input tax credit” shall be omitted.

Amendment of
section 140.

11. In section 140 of the Tripura State Goods and Services Tax Act, with effect from the 1st day of July, 2017,—

(a) in sub-section (1), after the words “existing law”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;

(b) in sub-section (2), after the words “appointed day”, the words “within such time and” shall be inserted and shall be deemed to have been inserted;

(c) in sub-section (3), for the words “goods held in stock on the appointed day subject to”, the words “goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to” shall be substituted and shall be deemed to have been substituted;

(d) in sub-section (5), for the words “existing law”, the words

"existing law, within such time and in such manner as may be prescribed" shall be substituted and shall be deemed to have been substituted;

(e) in sub-section (6), for the words "goods held in stock on the appointed day subject to", the words "goods held in stock on the appointed day, within such time and in such manner as may be prescribed, subject to" shall be substituted and shall be deemed to have been substituted;

Insertion of new section 168A in Act 9 of 2017.

12. After section 168 of the Tripura State Goods and Services Tax Act, 2017, the following section shall be inserted, with effect from the 31st day of March, 2020, namely:-

"168A. Power of Government to extend time limit in special circumstances: (1) Notwithstanding anything contained in this Act, the Government may, on the recommendations of the Council, by notification, extend the time limit specified in, or prescribed or notified under, this Act in respect of actions which cannot be completed or complied with due to *force majeure*.

(2) The power to issue notification under sub-section (1) shall include the power to give retrospective effect to such notification from a date not earlier than the date of commencement of this Act.

Explanation.— For the purposes of this section, the expression "*force majeure*" a case of war, epidemic, flood, drought, fire, cyclone, earthquake or any other calamity caused by nature or otherwise affecting the implementation of any of the provisions of this Act."

Amendment of section 172.

13. In section 172 of the Tripura State Goods and Services Tax Act, in sub-section (1), in the proviso, for the words "three years", the words "five years" shall be substituted.

Amendment to Schedule II.

14. In Schedule II to the Tripura State Goods and Services Tax Act, in paragraph 4, the words "whether or not for a consideration," at both the places where they occur, shall be omitted and shall be deemed to have been omitted with effect from the 1st day of July, 2017.

Retrospective exemption from, or levy or collection of, State tax in certain cases.

15. (1) Notwithstanding anything contained in the notification of the Government of Tripura in the Finance Department number 1/2017-State Tax (Rate), dated 29th June, 2017 published in the Tripura Gazette, Extraordinary Issue, vide number 230, dated 29th June, 2017, issued by the State Government, on the recommendations of the Council, in exercise of the powers under sub-section (1) of section 9 of the Tripura State Goods and Services Tax Act, 2017,—

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(i) no state tax shall be levied or collected in respect of supply of fishmeal (falling under heading 2301), during the period commencing from the 1st day of July, 2017 and ending with the 30th day of September, 2019 (both days inclusive);

(ii) state tax at the rate of six per cent. shall be levied or collected in respect of supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery (falling under headings 8432, 8433 and 8436), during the period commencing from the 1st day of July, 2017 and ending with the 31st day of December, 2018 (both days inclusive).

(2) No refund shall be made of all such tax which has been collected, but which would not have been so collected, had sub-section (1) been in force at all material times.

Repeal and
Savings

16. (1) The Tripura State Goods and Services Tax (Third Amendment) Ordinance, 2020 (The Tripura Ordinance No. 3 of 2020), which was promulgated on 1st June, 2020, is hereby repealed;

(2) Notwithstanding such repeal, any Notification and Order issued or any action taken under the Ordinance, so repealed shall be deemed to have been issued or likes under the corresponding provisions of this Act.

STATEMENT OF OBJECTS & REASONS

The Central Government has amended the Central Goods and Services Tax Act, 2017 through Section 118 to 133 of the Finance Act, 2020 (No. 12 of 2020) and Clause 8 of the Taxation and Other Laws (Relaxation of Certain Provisions) Ordinance, 2020 (No. 2 of 2020).

Similar amendments are required to be made in the Tripura State Goods and Services Tax Act, 2017 to avoid repugnancy with the Central Act.

The proposed Tripura State Goods and Services Tax (Third Amendment) Bill, 2020, *inter alia*, provides for—

“Section 2 of the Bill seeks to amend clause (114) of section 2 of the Tripura State Goods and Services Tax Act so as to align the definition of “Union territory” in line with the Jammu and Kashmir Reorganisation Act, 2019 and the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories), Act, 2019.

Section 3 of the Bill seeks to amend clauses (b), (c) and (d) of sub-section (2) of section 10 of the Tripura State Goods and Services Tax Act to harmonise the conditions for eligibility for opting to pay tax under sub-section (1) and sub-section (2A) of the said Act.

Section 4 of the Bill seeks to amend sub-section (4) of section 16 of the Tripura State Goods and Services Tax Act so as to delink the date of issuance of debit note from the date of issuance of the underlying invoice for purposes of availing input tax credit.

Section 5 of the Bill seeks to amend clause (c) of subsection (1) of section 29 of the Tripura State Goods and Services Tax Act so as to provide for cancellation of registration obtained voluntarily under sub-section (3) of section 25.

Section 6 of the Bill seeks to substitute the proviso to sub-section (1) of section 30 of the Tripura State Goods and Services Tax Act so as to empower the jurisdictional tax authorities to extend the period provided to file an application for revocation of cancellation of registration.

Section 7 of the Bill seeks to amend section 31 of the Tripura State Goods and Services Tax Act so as to empower the Government to notify the categories of services or supplies in respect of which tax invoice shall be issued and to make rules regarding the time and manner of its issuance.

Section 8 of the Bill seeks to amend section 51 of the Tripura State Goods and Services Tax Act so as to empower the Government to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued.

Section 9 of the Bill seeks to insert a new sub-section (1A) in section 122 of the Tripura State Goods and Services Tax Act so as to make the beneficiary of certain transactions at whose instance such transactions are conducted liable for penalty.

Section 10 of the Bill seeks to amend section 132 of the Tripura State Goods and Services Tax Act so as to make the offence of fraudulent availment of input tax credit without invoice or bill cognizable and non-bailable under sub-section (1) of section 69

and to make any person who retains the benefit of certain transactions and at whose instance such transactions are conducted liable for punishment.

Section 11 of the Bill seeks to amend section 140 of the Tripura State Goods and Services Tax Act relating to transitional arrangements for input tax credit, so as to prescribe the time limit and the manner for availing input tax credit against certain unavailed credit under the existing law. This amendment shall take effect retrospectively from the 1st day of July, 2017.

Section 12 of the Bill seeks to insert a new section 168A to empower the Government to extend time limit in special circumstances.

Section 13 of the Bill seeks to amend section 172 of the Tripura State Goods and Services Tax Act so as to extend the time limit provided for removal of difficulties thereunder from three years to five years, with effect from the date of commencement of the said Act.

Section 14 of the Bill seeks to amend paragraph 4 of Schedule II to the Tripura State Goods and Services Tax Act so as to omit the words “whether or not for consideration” so as to give clarity to the meaning of the entries (a) and (b) of said paragraph. This amendment shall take effect retrospectively from the 1st day of July, 2017.

Section 15 of the Bill seeks to provide retrospective exemption from state tax on supply of fishmeal, during the period from the 1st day of July, 2017 up to 30th day of September, 2019 (both days inclusive).

It further seeks to retrospectively levy state tax at the reduced rate of six per cent. on supply of pulley, wheels and other parts (falling under heading 8483) and used as parts of agricultural machinery of headings 8432, 8433 and 8436, during the period from the 1st day of July, 2017 up to 31st day of December, 2018 (both days inclusive).

It also seeks to provide that no refund shall be made of the tax which has already been collected.”

2. The Bill seeks to achieve the above objectives.

3. Section 3 to 10 and Section 15 has not yet been brought into force by Government of India by any notification and as such State Government also has to wait till issue of those notifications to bring these provisions in force in the State.

4. As the House of the Tripura Legislative Assembly was not in session and immediate action was required to be taken in this regard, the Governor promulgated the Tripura State Goods and Services Tax (Third Amendment) Ordinance, 2020 (The Tripura Ordinance No. 3 of 2020) on 1st June, 2020. The Bill now seeks to replace the said Ordinance.

(JISHNU DEV VARMA)
Deputy Chief Minister
(Minister-in-Charge, Finance)

TECHNICAL REPORT

The proposed Bill provides for the levy of tax on the supply of goods or services or both. The subject matter of the Bill conforms to the provisions of Clause (1) of the Article 286 of the Constitution of India.

The State Legislature is competent to legislate on the subject under sub-clause (1) of Clause 246A of the Constitution of India. The Provisions of the Bill are not repugnant to any provision of any existing Central Law or any provision of the Constitution, as amended by the Constitution (One Hundred and First Amendment) Act, 2016. It does not attract the proviso to Article 304(b) of the Constitution of India.

The Bill is money bill as defined in sub-clause (a) of Clause-I of Article 199 of the Constitution of India and as such recommendation of the Governor as required under clause (1) of Article 207 of the Constitution of India will be required for introduction of the Bill in the Tripura Legislative Assembly.

Tripura Gazette, Extraordinary Issue, September 24, 2020 A. D.

FINANCIAL MEMORANDUM

The proposed Tripura State Goods and Services Tax (Third Amendment) Bill, 2020 does not involve any recurring or non-recurring expenditure from the Consolidated Fund of the State.